

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 60

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MORAND LAMBLA, RAPHAEL MESTANZA SCHIL, DAR-JONG LIN, ERIC
VANDEVIJVER and MARIE-PAULE COLLARD

Appeal No. 1998-0522
Application No. 08/327,882

HEARD: October 25, 2001

Before PAK, WALTZ, and JEFFREY T. SMITH, Administrative Patent
Judges.

PAK, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the examiner's refusal to allow claims 1, 3, 9 through 11 and 20. Claims 12 through 19 stand withdrawn by the examiner as being directed to a non-elected invention. Claim 21 has been indicated as allowed by the examiner.

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Claim 1 is representative of the subject matter on appeal and reads as follows:

1. A polyphenylene sulphide composition consisting of 60 to 99.5% by weight of polyphenylene sulphide and 0.5 to 40% by weight of a crosslinked composition (C) consisting essentially of:

a compound (C1), consisting of an elastomeric copolymer derived from at least one olefin and at least one comonomer (1) containing at least one epoxy group and at least one ethylenically unsaturated radical, and at least one other unsaturated comonomer (2), an alkyl ester of an α,β -unsaturated carboxylic acid, and

a polymeric crosslinking agent (C2), consisting of a copolymer of an olefin and of at least one comonomer (3) selected from the group consisting of unsaturated carboxylic acids and carboxylic acid anhydride groups derived from these acids, and at least one other unsaturated comonomer (2') selected from alkyl esters of an α,β -unsaturated carboxylic acid, said crosslinking agent (C2) being crosslinked with said compound (C1).

In support of her rejections, the examiner relies on the following prior art references:

Kadoi et al. (Kadoi)	0 345 094 A1	Dec. 6, 1989
(Published European Patent Application)		

Masamoto et al. (Masamoto)	0 406 553 A2	Jan. 9, 1991
(Published European Patent Application)		

Claims 1, 3, 9 through 11 and 20 stand rejected under 35 U.S.C. § 103 as unpatentable over the disclosure of Masamoto.
Claims 1, 3, 9 through 11 and 20 stand rejected under 35 U.S.C. § 103 as unpatentable over the disclosure of Kadoi.

Having carefully reviewed the claims, specification, applied prior art, including all of the arguments advanced by the examiner

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and appellants, we agree with appellants that the examiner has not established a *prima facie* case of obviousness regarding the claimed subject matter within the meaning of 35 U.S.C. § 103. Accordingly, we reverse each of the foregoing § 103 rejections.

Even were we to agree with the examiner that Masamoto or Kadoi teaches a polyphenylene sulphide composition comprising at least one compound generically inclusive of claimed compounds (C1) and (C2), we find that the examiner has not demonstrated that Masamoto or Kadoi would have suggested cross-linked compounds as required by the claims on appeal. Nor has the examiner demonstrated that the product resulting from cross-linking compounds (C1) and (C2) would reasonably have been expected to behave in the same or similar manner as the compounds listed in the Masamoto or Kadoi references or the blend (non-cross-linked) compounds thereof. We simply find that the examiner has not adequately explained why one of ordinary skill in the art would have been led to a polyphenylene sulphide composition consisting essentially of a polyphenylene sulphide and a cross-linked composition consisting of compounds (C1) and (C2) which have been cross-linked.

In view of the foregoing, we reverse the decision of the examiner rejecting all of the appealed claims under 35 U.S.C. § 103.

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No time period for taking any subsequent action in connection
with this appeal may be extended under 37 CFR § 1.136(a).

REVERSED

CHUNG K. PAK)	
Administrative Patent Judge)	
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)	
)	
)	BOARD OF PATENT
THOMAS A. WALTZ)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
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)	
JEFFREY T. SMITH)	
Administrative Patent Judge)	

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